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1 - Texas Fertilizer Plant Fell Through Regulatory Cracks

The New York Times, 04/24/2013

<http://www.nytimes.com/2013/04/25/us/texas-fertilizer-plant-fell-through-cracks-of-regulatory-oversight.html?pagewanted=all&r=0>

In the moments after a fire broke out at a fertilizer plant here last week, some of the volunteer firefighters and other first responders who rushed to the scene appeared to have known that there were tons of dangerously combustible ammonium nitrate inside, but others did not.

2 - Congress to Look at Chemical Facility Regulations in Light of Texas Explosion

BNA Daily Environment Report, 04/25/2013

http://esweb.bna.com/eslw/1245/split_display.adp?fedfid=30411052&vname=denotallissues&jd=a0d7v1g9j8&split=0

Members of both chambers of Congress told BNA they will look at how U.S. chemical facilities are regulated in the aftermath of the April 17 explosion of a Texas fertilizer retail facility, but they largely refrained from judging the effectiveness of existing regulatory programs before an investigation can be completed.

3 - Chemical hazards often go unreported in rural areas

The Houston Chronicle, 04/24/2013

<http://www.houstonchronicle.com/news/houston-texas/houston/article/Chemical-hazards-often-go-unreported-in-rural-4458103.php?t=d8d90979b67c6fe178&t=d8d90979b6>

Hundreds - if not thousands - of family-owned plants, farmers' cooperatives and corporate fertilizer businesses in rural America overlook or disregard laws meant to protect the public from potentially explosive chemicals. And the federal government has known about extensive under-reporting of those hazards for years, according to Department of Homeland Security statistics and interviews with safety and industry experts.

4 - Limiting Environmental Regs Raises Fears of 'Race to the Bottom'

State Impact Texas, 04/25/2013

<http://stateimpact.npr.org/texas/2013/04/25/limiting-environmental-regs-raises-fears-of-race-to-the-bottom/#more-26947>

Texas likes to be "business friendly" and as the state legislature considers bills to limit environmental regulation to keep it that way, some economists warn of the longer term consequences.

5 - Arkansas Oil Spill Damage Assessment: If Not the Feds, Then Who?

Inside Climate News, 04/25/2013

<http://insideclimatenews.org/news/20130425/arkansas-oil-spill-damage-assessment-if-not-feds-then-who>

Federal agencies have so far not decided whether to undertake an assessment of the ecological harm caused by ExxonMobil's pipeline break, which spewed a tarry oil slick into yards, streets and creeks in a central Arkansas town.

6 - What is the likelihood that the Supreme Court will take review of EPA's greenhouse gas regulations?

Fuel Fix, 04/25/2013

<http://fuelfix.com/blog/2013/04/24/what-is-the-likelihood-that-the-supreme-court-will-take-review-of-epas-greenhouse-gas-regulations/>

On Friday, Texas lead a group of states in asking the Supreme Court to hear (and overrule) the DC Circuit case of last year upholding EPA's regulation of greenhouse gases from stationary sources. A group of industry representatives have joined in asking for Supreme Court review. Given the DC case and Texas's petition for certiorari, I think it unlikely that the Supreme Court will hear the case. Even if the High Court does hear the case, I think it unlikely to reverse the DC Circuit, at least in a way that would be to Texas's and regulated industry's liking.

7 - STIR fears letters will derail EPA efforts

Talequah Daily Press, 04/24/2013

<http://tahlequahdailypress.com/local/x1097433699/STIR-fears-letters-will-derail-EPA-efforts>

Members of Save The Illinois River Inc. are worried efforts are under way to derail the formation of a Total Maximum Daily Load of nutrients within the Illinois River watershed.

8 - Gas company settles NM air pollution complaint

Albuquerque Business First, 04/24/2013

<http://www.bizjournals.com/albuquerque/blog/morning-edition/2013/04/gas-company-settles-pollution-complaint.html>

A Houston-based natural gas company with operations in the Farmington area has reached an \$838,000 settlement with the New Mexico Environment Department for alleged air pollution emissions at 31 of its New Mexico facilities.

9 - Guidance Says EPA Is Developing Next Generation Compliance Program

BNA Daily Environment Report, 04/25/2013

http://esweb.bna.com/eslw/1245/split_display.adp?fedfid=30411047&vname=denotallissues&jd=a0d7v1d4f8&split=0

The Environmental Protection Agency is developing "a new paradigm" in its compliance program to address high noncompliance with environmental regulations, the agency said in draft national program manager guidance for fiscal year 2014. The EPA Office of Enforcement and Compliance Assurance said it is developing a Next Generation Compliance program that will take advantage of advances in emissions monitoring and information technology.

10 - EPA Acting Administrator Defends Water Infrastructure Cuts, Aerial Surveillance

BNA Daily Environment Report, 04/25/2013

http://esweb.bna.com/eslw/1245/split_display.adp?fedfid=30411039&vname=denotallissues&jd=a0d7v0z0n1&split=0

Bob Perciasepe, acting head of the Environmental Protection Agency, on April 24 defended proposed cuts to water infrastructure funds and the agency's use of aerial surveillance to enforce the Clean Water Act. Perciasepe told members of the Senate Appropriations Subcommittee on Interior, Environment, and Related Agencies that a proposed \$472 million cut to the state clean water revolving fund and state drinking water revolving fund is one of the "painful choices" that the agency had to make in formulating its fiscal year 2014 budget request.

11 - EPA Fights Multiple Legal Attacks In Suit Over MACT For Existing Utilities

Inside EPA, 04/25/2013

<http://insideepa.com/201304242431999/EPA-Daily-News/Daily-News/epa-fights-multiple-legal-attacks-in-suit-over-mact-for-existing-utilities/menu-id-95.html>

EPA is fighting multiple legal attacks by the power sector, states and environmentalists in final briefing in litigation over the agency's utility maximum achievable control technology (MACT) air toxics rule for existing utilities, broadly rejecting competing claims that the rule is either weaker or stricter than the Clean Air Act requires.

12 - Two Agencies Plan to Study Air Quality, Greenhouse Gas Emissions From Gas Drilling

BNP Daily Environment Report, 04/25/2013

http://esweb.bna.com/eslw/1245/split_display.adp?fedfid=30411050&vname=denotallissues&jd=a0d7v1g6u2&split=0

Two government agencies together will study air quality and greenhouse gas emissions at natural gas drilling operations. The National Energy Technology Laboratory of the Energy Department and the National Institute for Occupational Safety and Health signed a memorandum of understanding for the research, the agencies announced April 23.

13 - EPA Report Shows Utilities Going Above, Beyond Secondary Treatment Standards

BNP Daily Environment Report, 04/25/2013

http://esweb.bna.com/eslw/1245/split_display.adp?fedfid=30411042&vname=denotallissues&jd=a0d7v1a2u5&split=0

An Environmental Protection Agency report shows that the nation's utilities that discharge at least 10 million gallons per day of wastewater are going above and beyond their prescribed secondary treatment standards.

14 - EPA Struggles To Use Children's Health Data When Setting NAAQS

Inside EPA, 04/25/2013

<http://insideepa.com/201304242432058/EPA-Daily-News/Daily-News/epa-struggles-to-use-childrens-health-data-when-setting-naaqs/menu-id-95.html>

An EPA scientist is downplaying prospects that the agency will be able to use more children's health studies when setting national ambient air quality standards (NAAQS), as its children's health advisors are urging, due to political opposition from industry groups and their supporters on Capitol Hill, as well as a limited number of studies of children.

15 - OU increases its green power and rises on top schools list

The Norman Transcript, 04/25/2013

<http://normantranscript.com/headlines/x63039997/OU-increases-its-green-power-and-rises-on-top-schools-list>

The University of Oklahoma has increased its ranking to No. 2 on the Top 20 College and University list of the largest green power purchasers, according to the U.S. Environmental Protection Agency.

16 - BP teams with A&M to study where spills might travel in Gulf

The Houston Chronicle, 04/25/2013

<http://www.chron.com/news/houston-texas/houston/article/BP-teams-with-A-M-to-study-where-spills-might-4460635.php>

Texas A&M and BP have teamed up to release 5,000 "drift cards" in the Gulf Of Mexico to help track ocean tides, and in the event of an industrial accident, the direction of the spill.

The New York Times

April 24, 2013

Texas Fertilizer Plant Fell Through Regulatory Cracks

By **MANNY FERNANDEZ** and **STEVEN GREENHOUSE**

WEST, Tex. — In the moments after a fire broke out at a fertilizer plant here last week, some of the volunteer firefighters and other first responders who rushed to the scene appeared to have known that there were tons of dangerously combustible ammonium nitrate inside, but others did not.

Ammonium nitrate is the same chemical that Timothy McVeigh used in the Oklahoma City bombing in 1995. The nitrogen-rich chemical, a crystal-like substance that resembles coarse table salt, is popular with farmers as a [fertilizer](#) but in the wrong hands or in the wrong conditions it can turn explosive. Investigators say that the ammonium nitrate stored at the plant appeared to have caused the [subsequent explosion that killed 10 firefighters and at least 4 civilians](#).

The uncertainty over who was aware of the chemical at the plant and who was not, both at the site and in Washington, illustrates the patchwork regulatory world the plant operated in and the ways in which it slipped through bureaucratic cracks at the federal, state and local levels.

One week after the blast, investigators were still not sure how much ammonium nitrate was stored there, whether it had been stored properly and which agencies had been informed about it — even though a host of federal, state and local officials were responsible for regulating and monitoring the plant's operations and products.

Many safety decisions — including moves in recent years to build homes, schools and a nursing home not far from the decades-old plant — were left to local officials who often did not have the expertise to assess the dangers. And the gaps in the oversight of the plant and a paper trail of records have left the essential question of how and why the ammonium nitrate ignited a mystery.

“The whole thing may have fallen through a number of regulatory cracks,” said a federal official whose agency helped regulate the plant.

The explosion was so powerful it leveled homes and left a crater 93 feet wide and 10 feet deep. Judging by the size of the crater and the extent of the damage — pieces of twisted metal and



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in distant pastures, and ceiling tiles and lights shook loose in buildings two miles away — the explosion was more powerful than the Oklahoma City bombing, experts said.

The blast occurred shortly before 8 p.m. on April 17, about 20 minutes after a fire was reported at the plant, the West Fertilizer Company, in this rural town north of Waco, in McLennan County. It appeared to have been set off by the accidental eruption of ammonium nitrate, an official familiar with the investigation said. The plant did not make ammonium nitrate, but was a retail distribution center; the chemical was brought in by train and stored and sold out of large bins.

When properly stored, ammonium nitrate is difficult to ignite. Investigators are exploring a number of theories, the official said, about what could have created the intense heat or other unusual conditions necessary to detonate the chemical: whether a fire that broke out earlier in the day flared up again and grew in intensity; the possibility that piles of seed nearby could have burst into flame; and whether the collapse of the roof of a wooden building damaged in the fire contributed to the conditions.

“These are just working theories,” said the official, who spoke on the condition of anonymity because the person is not authorized to discuss the investigation. “None of these have enough substance for us to put forward as a scenario.”

Experts had speculated that another chemical at the plant — anhydrous ammonia, a potentially flammable gas used as a commercial fertilizer — played a role in setting off the ammonium nitrate. But the official said the plant’s two bullet-shaped anhydrous ammonia tanks were damaged but had not exploded. The blast crater is in the part of the plant where the ammonium nitrate was stored, the official said, though investigators do not yet know exactly how much of it was there at the time or how the storage bins were configured.

Under the Emergency Planning and Community Right-to-Know Act, the plant is required to send an annual report detailing the hazardous chemicals it keeps on site to three state and local groups — the Texas Department of State Health Services, the local fire department and a group of county emergency officials known as the [Local Emergency Planning Committee](#).

Plant managers sent the report, called a Tier II report, to the state agency this year and said that in 2012 the facility had 540,000 pounds of ammonium nitrate stored, for sale to local farmers. That amount is more than 100 times that used in the Oklahoma City bombing. The report was also sent to the Local Emergency Planning Committee, a county official said. It was unclear if the plant sent the report to the West Volunteer Fire Department, but it appeared likely.

A foreman at the plant who was killed in the explosion, Cody Dragoo, 50, was also a volunteer firefighter. Other firefighters who died worked in the local government or were knowledgeable about farming and agricultural chemicals. Dr. George N. Smith, the medical director of the West ambulance service, said he was not aware that the plant stored ammonium nitrate. He was not alone, however — neither the federal [Environmental Protection Agency](#) nor the [Homeland Security Department](#) knew, either.

After the Sept. 11 attacks, Congress passed a law requiring plants that use or store explosives or high-risk chemicals to file reports with the Homeland Security Department so it can increase security at such facilities. That requirement includes any plant with more than 400 pounds of ammonium nitrate, but a Homeland Security official said that West Fertilizer had not filed such a report, even though it had 1,350 times that amount. The plant is not on the department's list of 4,000 facilities with high-risk chemicals, and one official said it might have been placed on that list if it had filed a report.

A tangle of agencies regulates plants like the one in West. Different agencies were assigned oversight for different chemicals there. Among the federal agencies responsible were the E.P.A., Homeland Security, the [Occupational Safety and Health Administration](#) and the Pipeline and Hazardous Materials Safety Administration. State agencies include the Texas Commission on Environmental Quality, the state chemist's office and the state health services department.

Under the [Clean Air Act](#), the E.P.A. requires companies like West Fertilizer to file risk management plans when they use or store sizable quantities of anhydrous ammonia. In a 2011 filing, the plant said it had 54,000 pounds of that chemical. But the E.P.A. does not require those plans to include whether a facility uses or stores ammonium nitrate. In 2002, the federal Chemical Safety Board recommended to the E.P.A. that it broaden those risk management plans to include volatile hazardous chemicals similar to ammonium nitrate. That recommendation was never acted upon.

OSHA officials, meanwhile, acknowledged that they had last inspected the plant 28 years ago. Agency officials said the plant did not fall into its priority categories based on prior inspections, a lack of worker complaints and because it was not classified as high risk by the E.P.A.

Inspectors with the Texas Feed and Fertilizer Control Service, however, had made at least 35 visits to the plant since 2006, including one on April 5, 12 days before the blast. That agency regulates aspects of the fertilizer industry as part of the state chemist's office, and oversees the sale of ammonium nitrate in the state. The state chemist, Tim Herrman, said the law prohibits him from disclosing information about the 115 facilities that hold permits to sell ammonium nitrate in Texas.

Paul Orum, a consultant on chemical safety, said a major shortcoming in the system of regulating chemical plants is the reliance on self-reporting. If a company like West Fertilizer fails to file a required report or misreports the risks it faces, it is often hard for agencies, with their budgetary constraints and overstretched staffs, to catch such errors. In its 2011 Risk Management Plan filed with the E.P.A., West Fertilizer did not check the box saying the plant might face a risk of fire or explosion.

In addition, safety experts say these inspections and penalties do not address a fundamental problem — the proximity of houses, schools and a nursing home to the fertilizer plant.

“You don’t build an apartment complex, an old folks home or a school that close to a facility that’s storing 270 tons of ammonium nitrate — that doesn’t make sense,” said Al Armendariz, the former E.P.A. director for Texas, and who now works for the Sierra Club. “None of these agencies have or believe they have the authority — from the federal government or the state government — to require some kind of common-sense thing like a buffer zone.”

Manny Fernandez reported from West, and Steven Greenhouse from New York.

Source: Daily Environment Report: News Archive > 2013 > April > 04/25/2013 > News > Security: Congress to Look at Chemical Facility Regulations in Light of Texas Explosion

80 DEN A-12

Security

Congress to Look at Chemical Facility Regulations in Light of Texas Explosion



By Anthony Adragna

Members of both chambers of Congress told BNA they will look at how U.S. chemical facilities are regulated in the aftermath of the April 17 explosion of a Texas fertilizer retail facility, but they largely refrained from judging the effectiveness of existing regulatory programs before an investigation can be completed.

Rep. Bennie Thompson (D-Miss.), ranking Democrat on the House Homeland Security Committee, told BNA April 24 the explosion called into question the fundamentals of the Department of Homeland Security's Chemical Facility Anti-Terrorism Standards (CFATS) program.

Sen. Frank Lautenberg (D-N.J.), meanwhile, said in a statement that the explosion underscored the need to pass two bills he has sponsored that would require drinking water and wastewater treatment plants and chemical plants to evaluate and, if feasible, install inherently safer technologies.

The American Chemistry Council told BNA judgment should be reserved on existing regulatory programs until an investigation has been completed.

The April 17 explosion of the West Fertilizer facility in West, Texas, killed 15 people, local officials said. The facility had reported storage of 110,000 pounds of anhydrous ammonia, a toxic chemical that can blind or kill at high exposure levels, and at least 270 tons of ammonium nitrate, a fertilizer that is also explosive, according to documents filed with the Environmental Protection Agency (76 DEN A-16, 4/19/13).

Facility Did Not Report Under CFATS

Facilities must complete a top screen assessment under the CFATS program if they have more than 10,000 pounds of anhydrous ammonia or more than 400 pounds of ammonium nitrate. The facility did not file top screen assessments for the two chemicals, according to DHS.

"My understanding is that the facility had not reported, as it was required to do, when it had crossed the threshold level of amount to be under the CFATS program," Secretary of Homeland Security Janet Napolitano told a Senate subcommittee hearing April 23. "So we're following up on that and making sure that whatever needs to be done is done."

Thompson told BNA he will send a letter to Homeland Security Committee Chairman Michael McCaul (R-Texas) asking for new consideration of CFATS reform legislation this year. He said he believes the House will address CFATS this session.

"We want to be sure that facilities like the West Texas facility can't operate outside the review of government," Thompson said. "Regulations in many instances are there to protect the public, and if those regulations had applied to this facility and had been enforced, there's no question the lives and property lost by this unfortunate incident could have been avoided."

Thompson also said federal and state agencies need to do a better job of enforcing existing regulations and that Congress should replace self-reporting standards for chemicals of interest with "more stringent requirements."

Since it was first authorized in Section 550 of the 2007 DHS appropriations bill, CFATS has required high-risk chemical facilities to implement protective measures to meet DHS-defined, risk-based performance standards, complete security vulnerability assessments, and develop site security plans.

Mike Rosen, a spokesman for McCaul, said the Homeland Security Committee will take a look at any

shortcomings in regulations of these plants and said it “certainly appears” DHS has some work to do on tracking them.

Republican Opposes Calls for IST

Rep. Mike Pompeo (R-Kan.) rejected Lautenberg's calls to increase the use of inherently safer technologies at critical infrastructure facilities and said EPA should not create a standard that is “very subjective with enormous penalties attached to it.”

“We don't know the facts of what happened in Texas,” Pompeo told BNA. “If they were violating the law, they should pay the full price, but this idea that EPA is going to step in and solve a problem that DHS has a really good handle on is nonsense. I still think section 112(r) ought to go the way of all bad ideas.”

Environmental and labor groups asked EPA in 2012 to require the use of inherently safer technologies—processes that aim to improve safety by reducing or eliminating hazards through permanent alterations to a chemical facility's systems—under Section 112(r)(7)(A) and the general duty clause of the Clean Air Act.

Pompeo introduced legislation in February that would prevent EPA from mandating the use of inherently safer technologies at chemical facilities (41 DEN A-13, 3/1/13).

Lautenberg's bills, the Secure Chemical Facilities Act (S. 68), which would be overseen by DHS, and the Secure Water Facilities Act (S. 67), which would be overseen by EPA, were introduced in January.

Senate: ‘Looking at It.’

Sen. Claire McCaskill (D-Mo.), a member of the Senate Homeland Security Committee, said the Senate will be looking into chemical security regulations, especially focusing on inspection requirements in state and federal regulatory programs.

“We're taking a look at [regulatory programs],” she told BNA. “Fertilizer plants are giant bombs if not handled appropriately and if they don't have the right safety measures in place.”

Sen. Tom Carper (D-Del.), chairman of the Senate Homeland Security Committee, said his committee shares chemical security oversight with the Environment and Public Works Committee. He said he hopes the committee will look at chemical facility regulations as it works on legislation on the Toxic Substance Control Act later this year.

Sen. Tom Coburn (R-Okla.), ranking member on the Senate Homeland Security Committee, told BNA the CFATS program has fallen behind in its regulatory mission but said any reform “needs to be industry-driven, not government [driven].”

Other senators, including Sens. John McCain (R-Ariz.), Mark Begich (D-Alaska), and Jim Risch (R-Idaho), said an evaluation of chemical security regulations should wait until an investigation into the incident has been completed.

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ISSN 2167-8065

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Chemical hazards often go unreported in rural areas

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Stewart Villanueva, MBR

El Dorado Chemical's warehouse and plant near Bryan caught fire in 2009, causing a mass evacuation. In the aftermath, the company rebuilt the plant with a concrete storage facility for ammonium nitrate.

By Lise Olsen and Ingrid Lobet

April 24, 2013

Hundreds - if not thousands - of family-owned plants, farmers' cooperatives and corporate fertilizer businesses in rural America overlook or disregard laws meant to protect the public from potentially explosive chemicals.

And the federal government has known about extensive under-reporting of those hazards for years, according to Department of Homeland Security statistics and interviews with safety and industry experts.

One of those businesses, the West Fertilizer Co. plant that blew up last week taking 14 lives and permanently scarring a tiny town, stockpiled large quantities of explosive ammonium nitrate, among other chemicals, without reporting to Homeland Security as required by an anti-terrorist program.

"There's no question that (West owners) were in violation of federal law," said industrial safety expert M. Sam Mannan, director of the Mary Kay O'Connor Process Safety Center at Texas A&M University.

"They should have reported to DHS. In my opinion, there is plenty of blame to go around. As for the facilities themselves, not knowing the law is not a good defense. There should be a priority determination of how many other fertilizer facilities (have these chemicals) ... Not only do we have to know, but we have to manage that risk."



The Department of Homeland Security estimates that about 6,000 firms nationwide store potentially hazardous chemicals - including ammonium nitrate and many other substances listed in the federal homeland security law - and are required to report to the department under the Chemical Facility Anti-Terrorism Standards program.

But, according to Homeland Security spokesman Peter Boogaard, only 4,000 businesses have filed such reports so far.

Failure at West plant

Boogaard confirmed Tuesday that West Fertilizer never registered its own stores of ammonium nitrate or anhydrous ammonia with the department prior to the blast. He said the department is currently investigating the company's failure to do so.

West Fertilizer officials did inform the Texas Department of State Health Services in 2012 about 270 tons of potentially explosive ammonium nitrate and 55 tons of anhydrous ammonia at its facility.

The amount of both chemicals on site is above the Homeland Security reporting threshold. State officials, however, did not share that report with federal officials and are not required to.

Over the years, a series of tragedies - the Bhopal disaster that killed 3,800 in a lethal

gas leak in 1984 in India, the Murrah Federal Building bombing in Oklahoma City in 1995 and the Sept. 11, 2001, terrorist attacks - has woven a web of confusing state, local and federal reporting requirements for companies that store and sell hazardous chemicals.

However, 18 years after Timothy McVeigh and his accomplices packed a truck with 2 tons of ammonium nitrate fertilizer mixed with racing fuel and detonated it in front of the federal building in Oklahoma City, a buyer can still walk into a farm supply and purchase large amounts of that same compound, as long as he does nothing to arouse suspicion.

The Oklahoma City attackers obtained the ammonium nitrate, a key ingredient in their bomb, from a cooperative in the tiny town of McPherson, Kan., population 13,000, that remains in business today.

In Texas alone, more than 1,000 rural businesses sell or mix fertilizer, according to the Office of the Texas State Chemist, and ammonium nitrate remains a cheap and popular product.

Typically, a ton or more of ammonium nitrate - more than enough to trigger Homeland Security reporting - is kept in open-sided wooden boxes in old-fashioned buildings in rural businesses that are often owned by small family companies or farmers' cooperatives, according to John Carver, vice president for safety and environmental compliance at Oklahoma City-based El Dorado Chemical.

Lessons from 2009 fire

El Dorado manufactures fertilizer and also operates its own warehouses that mix and sell fertilizer in Texas and other states.

El Dorado Chemical's warehouse and mixing plant on the outskirts of Bryan, which contained about 250 tons of ammonium nitrate, caught fire in 2009 after a welding accident, even though that plant had security and firefighting procedures that had been reviewed by Homeland Security, Carver said.

Bryan firefighters, alerted to the dangers by El Dorado's own reports, evacuated many of the town's 70,000 residents for a full day and allowed the fire to smoulder and burn itself out instead of applying water that could have caused it to spread - a response they hoped might help prevent a potentially catastrophic explosion, said

Chuck Frazier, emergency management coordinator for Brazos County.

In the aftermath, El Dorado itself investigated the fire, but no one from the Environmental Protection Agency, Homeland Security or the State Fire Marshal's Office reviewed the incident, the Chronicle confirmed.

Carver said his company decided to rebuild the plant with a concrete storage facility for the ammonium nitrate - a fire-prevention safety measure which he described as unique in the industry.

It remains unclear how much volunteer firefighters who reported to the scene in West knew about the chemicals inside that plant, which was near a school, homes and a nursing home. The city secretary, who oversaw local homeland security planning, died fighting the fire.

Focus on urban areas

Federal Homeland Security officials tend to focus their efforts on hazardous chemicals stored in urban areas, like the refineries and chemical complex on the Texas Gulf Coast that include many multinational companies with full-time security and safety specialists.

Even when they receive reports, they can take years to review them because of backlogs, Houston chemical plant managers told the Chronicle.

David Wade, a top Harris County homeland security official who specializes in industrial safety and fire prevention, said he's concerned about West Fertilizer's failure to file required federal safety plans and other evidence of the rural company's apparent disregard for basic safety rules.

Wade cited a recent incident in which West Fertilizer burned wooden pallets near the stockpiled explosive material on the site.

"This outdoor burning and having unknown products on site and not being thorough or up-front about what they have in the facility all leads up to the big disaster - which in this case cost the lives of innocent responders and innocent civilians," said Wade, who is also president of the State Firemen's and Fire Marshals' Association of Texas.

"The mom and pop shops concern me. Either they're ignorant and don't know that they have to be reporting, or they might be fudging. I can't believe the local

StateImpact

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AUDIO

Limiting Environmental Regs Raises Fears of 'Race to the Bottom'

APRIL 25, 2013 | 6:30 AM

BY [DAVE FEHLING](#)

Texas likes to be “business friendly” and as the state legislature considers bills to limit environmental regulation to keep it that way, some economists warn of the longer term consequences.

“It’s not as simple as saying yeah, it’s a negative for everybody and everybody is going to move out of the state if we have more stringent regulation,” said Daniel Millimet, an environmental economist at Southern Methodist University in Dallas.

The idea that too much regulation can scare off business has been a main thrust of some of the state’s environmental regulators like David Porter, one of the three elected leaders of the Texas Railroad Commission. Speaking last October at oil and gas drillers conference in San Antonio, Porter contended that should Texas succumb to the stricter pollution regulation of the federal government, disaster would follow for the state’s booming drilling industry.



DAVE FEHLING / STATEIMPACT TEXAS

Cattle ranch borders petrochemical plant in Calhoun County

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“Texas is just killin’ it as far as job creation”

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“It will cripple the industry and it will cripple our economy. We must keep regulation of Texas’s natural resources in Texas by Texans,” Porter told the convention. “It is the Railroad Commission’s long history of wisely enforcing state regulations that has allowed oil and gas to drive our economy and establish Texas as a national economic powerhouse.”

No doubt about the powerhouse part.

“Texas, of course, hands down is just killing it as far job creation, capital investment and attracting companies to its state,” said Lee Higgins with the Site Selection Group, a Dallas company that works with governments and businesses to find locations for industrial plants, warehouses and offices.

Texas Knows How to Do Business

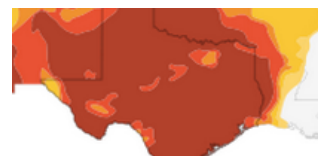
Higgins says Texas is recognized as the leader in finding ways to attract jobs and not just

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in the traditional petroleum and chemical sector but also in alternatives using wind to make electricity. The Governor's office just launched an attack that uses **a radio ad** to be aired in Illinois to persuade businesses there to move to Texas. The Governor had **previously targeted** California.

Bills Limit Regulation

Making sure no industry is too encumbered by environmental regulation seems to be the aim of several bills before the Texas legislature.

- There's a bill to **eliminate public hearings** when state-issued pollutions permits are challenged.
- Another calls for the **speedy processing of pollution permits** if it would "benefit the local or state economy."
- Another demands a study to make sure Texas environmental laws are no more stringent "than the **minimum acceptable standards.**"

What the Research Tells Us

But economists in Texas and other states tell StateImpact that when it comes to creating jobs, there's no clear evidence that minimizing environmental regulation will help.

"I think it's very hard to find statistical evidence that that is true, but you do see examples of that argument being made," said Arik Levinson, an environmental economist at Georgetown University in Washington D.C.

Levinson's research leads him to conclude that lax enforcement of pollution laws may not make much difference in whether some energy companies stay in—or relocate to—Texas.

"Texas has natural advantages in many of these industries. That's why they're located there; there's oil in the ground, a natural harbor, oil refineries already built there. So moving those industries out of the state is difficult", Levinson said.

By contrast, Levinson said "cleaner" industries like electronics are more flexible as to where they locate and might actually be deterred from coming to a state that's perceived as having a pollution problem.

Race to the Bottom?

What also troubles Levinson is this: if states try to out-do each other to attract new business by relaxing environmental enforcement, it could lead to just what a major federal law passed decades ago was trying to prevent.

"The Clean Air Act in '70 and '77 was enacted in part to set national standards so that states wouldn't compete with each other with this sort of a race to the bottom," Levinson told StateImpact. Texas **has ranked poorly** against other states in several measures of air quality, toxic exposure of its residents, and for the total amount of hazardous waste it creates.

Daniel Millimet, the environmental economist at SMU, said he too finds no clear evidence that relaxed pollution regulation increases overall employment and therefore he says there's a risk in pursuing state policies based on the belief.

"We may undercut our regulation here in Texas even though it doesn't actually influence



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David Porter, Texas Railroad Commission, speaking to drillers at DUG conference in San Antonio in October 2012

Texas Nuclear Reactor Restarts, Four Months After Fire



decisions firms are actually making," said Millimet.

In Louisiana where there is also a vibrant gas and oil exploration industry as well as huge petrochemical complexes, Jay Shimshack, an environmental economist at Tulane University, said his research has shown that stringent enforcement does reduce pollution.

"It's also clear environmental regulation has real costs. But those costs come with significant benefit in terms of enhanced environmental quality," said Shimshack.

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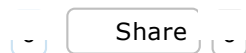
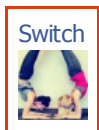
Arkansas Oil Spill Damage Assessment: If Not the Feds, Then Who?

By [Maria Gallucci](#), [InsideClimate News](#) ^[1]

Apr 25, 2013

For now, two state agencies with little experience in dealing with major oil spills are in charge of surveying and counteracting the ecological damage.

By Maria Gallucci



Federal agencies have so far not decided whether to undertake an assessment of the ecological harm caused by ExxonMobil's pipeline break, which spewed a tarry oil slick into yards, streets and creeks in a central Arkansas town.

For now, they're leaving it to state agencies to decide whether and how to quantify and counteract the environmental damage.

The rupture in the Pegasus pipeline on March 29 dumped up to an estimated 294,000 gallons of Canadian heavy crude with toxic substances in Mayflower, Ark.—including in a cove that flows into Lake Conway ^[3], a major fishing lake. If that estimate turns out to be correct, the Arkansas spill would be one-third the size of a 2010 Michigan pipeline spill, the worst accident of its kind in U.S. history.

Experts say that after oil spills, hydrocarbons and toxins leech into the soil and sediment and travel up the food chain as fish and animals eat contaminated species. The oil can also kill crucial erosion-protecting vegetation.

It can take years and millions of dollars to restore the environment.

"Ecosystems provide the most basic forms of sustenance for us: our food supply, our drinking water, protection against floods and natural disasters," said [John Kostyack](#) ^[4], vice president for wildlife conservation at the National Wildlife Federation. "When you start breaking down those

ecosystems, you start losing that."

The Arkansas Department of Environmental Quality [5] and the Arkansas Game and Fish Commission [6] are in charge of surveying the damage to oil-hit wildlife, wetlands, soil and groundwater along the mile-long spill site.

The two agencies told InsideClimate News they have little experience in handling a major oil spill like the one in Mayflower.

When major oil or chemical accidents hit, federal and state agencies have the option to do a damage assessment together through a legal process called the Natural Resource Damage Assessment and Restoration Program [7], or NRDA (*pronounced nerd-ah*). Through a NRDA, agencies determine the cost of ecological destruction from spills and develop a plan to restore the ecosystem that must be paid for by the responsible parties. States cannot do a NRDA on their own.

Federal agencies that can conduct a NRDA are the National Oceanic and Atmospheric Administration (NOAA), the five Interior department bureaus—including the Fish and Wildlife Service—plus the U.S. Departments of Agriculture, Energy and Defense, as well as federal Indian tribes.

NOAA [8], which manages marine ecosystems, said it has no plans to take a NRDA approach in Mayflower. "We don't think [the oil] is impacting NOAA trust resources," said spokeswoman Keeley Belva.

The Fish and Wildlife Service [9], the only federal agency directly involved in the Mayflower spill that does NRDA work, said it hasn't made a decision yet.

"The state's got the lead," said Jim Boggs, a field supervisor at the service's Arkansas office.

What the State Is Doing

The state Game and Fish Commission plans to hire a private consultant in the next few weeks to quantify the damage to wildlife and Lake Conway and create a plan to restore the ecosystem. The work to restore the environment is expected to be paid for by Exxon, according to commission spokesman Keith Stephens. He said neither Exxon nor federal agencies would have a say in the decision on the consultant.

The Department of Environmental Quality will do its own damage assessment. Ryan Benefield, the agency's deputy director, said about 10 engineers, geologists and water scientists will soon begin "extensive sampling" of sediment, soil, groundwater and surface water in areas where much of the oil has been cleaned up.

Time is not on their side, however.

Collecting data on oil-damaged areas is critical in the first days after a spill because the oil is still visible, said Jeffrey Short [10], a scientist at Oceana, a conservation organization.

"You lose information at an exponential rate after an incident occurs" as oil settles and is absorbed in the surrounding ecosystem, said Short, who worked for 31 years as a NOAA

research chemist. For much of that time he was involved in damage assessment for the Exxon Valdez oil spill.

Not long after the oil spills, "there's a blackout period where things are happening in the environment and you can't see them," he said.

The Challenge of Dilbit

Short said the problem is especially worrisome for diluted bitumen, or dilbit, the type of oil that spilled from Exxon's pipeline in Arkansas. The heavy bitumen crude is diluted with chemicals and light hydrocarbons so that it's thin enough to flow through pipelines. When it hits the water, and the diluents evaporate, the bitumen sinks to the bottom and accumulates in the sediment.

"Once it sinks, how do you tell where it went ... unless you have a means of evaluating it in the field?" Short said.

The crude that was flowing through the Pegasus pipeline is called Wabasca Heavy ^[11]. According to industry ^[12], Wabasca contains at least 10 types of hazardous constituents, including benzene, a known human carcinogen, as well as polyaromatic hydrocarbons that can disrupt the hormone systems in animals and humans.

After the oil is cleaned up, "there will be these residual chemicals in the environment ... and nobody really knows [for] how long," said Ben Cash ^[13], the biology department chair at the University of Central Arkansas who is leading snake rescue efforts in Mayflower.

"It's a little more difficult to put a value" on those types of impacts, Cash said.

Three years ago it was dilbit that spilled out of Enbridge's pipeline and into Michigan's Kalamazoo River. Sunken oil is still being removed from the bottom of the river today. Dilbit is also the same type of oil that would flow through the proposed Keystone XL pipeline.

Stephanie Millsap ^[14], a contaminant specialist with the Fish and Wildlife Service in Michigan, said the service put her in charge of NRDA activities one day after Enbridge reported the million-gallon spill. "We realized that given the magnitude of the volume of the oil spill ... there was a definite potential for NRDA issues," she said.

Millsap said the agencies involved in the NRDA process there are studying the bitumen that has settled with the river bottom sediment. She said researchers are examining the toxicity of the crude to the ecosystem; how harmful it is to fish and invertebrate; and the impacts of dredging oil and soil from the Kalamazoo River.

"I don't think any one of us had ever dealt with sinking oil before," she said.

Benefield of the Arkansas Department of Environmental Quality said his agency is taking water samples twice a week "at elevation and at depth" in the swampy cove and in the main body of Lake Conway to see if any oil has traveled or sunk, in addition to Exxon's daily samples. The 6,700-acre fishing area, which is stocked with bass, catfish and crappie, lies nine-tenths of a mile from the Mayflower spill site.

"So far, we've seen non-detect or low levels [of oil] that would more likely be associated with motor boat activity," he said.

So Far, Wildlife the Priority

Removing the oil and rescuing wildlife has been the top priority of federal, state and Exxon officials.

Contractors hired by Exxon have been leading most of the rescue and recovery operations. Wildlife specialists have collected more than 160 animals and transferred them to a rehabilitation center. About 100 of them have been released back into the wild, according to Exxon.

More than 200 animals have died as a result of the spill, more than half of which were euthanized snakes. Ducks, turtles, beavers, lizards and nutria have also been harmed, mainly in the streams and swamp areas that lead into the cove of Lake Conway.

The Game and Fish Commission said it is gathering the data from Exxon and the federal Fish and Wildlife Service. It will hand the information to the private consultant to help calculate the wildlife damage and devise a rehabilitation plan.

The agency said that while it believes the spill hasn't harmed the fish in the main body of Lake Conway, it is concerned about reputational damage to the treasured lake.

"You're always going to have folks who are concerned about health reasons, and they might not ever come back to the lake," said Chris Racey, assistant chief of fisheries management at the commission. "Long-term, we want to carefully consider any impacts to recreation. That's a difficult thing to measure. That may be a challenge down the road for us."

Kostyack of the National Wildlife Federation said he believes a NRDA process will become inevitable in Mayflower, simply because it is a major oil spill and the ecosystem damage is extensive.

The NRDA process for oil spills was established as part of the federal Oil Pollution Act of 1990. Congress passed the law one year after the 11-million gallon Exxon Valdez spill to give government agencies more authority and funding to respond to major oil accidents and to enforce rehabilitation work. More than 80 oil-related NRDA processes have been launched.

"Any time you have natural resources impacted like [in Mayflower], you're going to have an NRDA situation," Kostyack said. "Whenever you have an oil spill, the obligation falls upon the oil company to clean it up, as well as to restore it back to the conditions that existed [before] the spill. So you need agencies to supervise that process."

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What is the likelihood that the Supreme Court will take review of EPA's greenhouse gas regulations?

Posted on April 24, 2013 at 3:35 pm by Victor Flatt in [Climate](#), [Climate Change](#), [Environment](#), [Environmental Protection Agency](#), [General](#)

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On Friday, Texas lead a group of states in asking the Supreme Court to hear (and overrule) the DC Circuit case of last year upholding EPA's regulation of greenhouse gases from stationary sources. A group of industry representatives have joined in asking for Supreme Court review. Given the DC case and Texas's petition for certiorari, I think it unlikely that the Supreme Court will hear the case. Even if the High Court does hear the case, I think it unlikely to reverse the DC Circuit, at least in a way that would be to Texas's and regulated industry's liking.

The Texas petition cites three reasons for granting review: the legality of the EPA "tailoring rule," the legality of EPA regulation under the CAA at all given "Congressional intent," and the possibility of reversing the Supreme court's own Massachusetts v. EPA case (which declared that EPA had jurisdiction to regulate such gases.)

Here is my rundown of the purported reasons to grant review.

1) Legality of EPA's tailoring rule. The DC Circuit did not reach this because it held that state petitioners did not have standing, in particular that the states could show no injury by the action (in fact it gave them less regulation). This is a somewhat unusual standing issue from an unusual case and legal issue. I believe the DC Circuit was correct. The recent Supreme Court precedent has been quite strict on standing issues (demonstrated recently by questions in the California marriage case). However, the court is hard to predict, and there is a possibility that the Court could take the case for this reason and reverse on standing. The problem for Texas and the other states, however, is that even if the Supreme Court did reverse on standing, and even if it did overturn the "tailoring rule" as being against statutory requirements (against which EPA still has some plausible arguments), this would simply mean that greenhouse gas regulation would cover infinitely more sources. Texas might be convinced that Congress would then rush in to change the Clean Air Act, but as we have all seen, getting things done at all in this Congress would be very difficult.

2) Whether Congress delegated to EPA the right to regulate greenhouse gases for stationary sources "given the absurd result of regulating so many small sources." This argument is a loser. If (as Texas argues in its first argument) the CAA text has to be followed explicitly, then it has to be followed explicitly, whatever the consequences. You can't look for the Supreme Court to imply Congressional intent when the statute is unambiguous in a different direction.

3) Over-ruling Mass v. EPA. This is definitely a non-starter and just might make the Supreme Court mad. The swing vote is still Kennedy who wrote the majority in Mass v. EPA, and asking him to over-rule his own ruling in such a short time will not work. In fact, I am a bit shocked by this claim for cert. since it might actively push the justices against the state petitioners.

It only takes 4 justices to grant cert., and presumably that would be the conservative justices (the dissenters in Mass v. EPA), but they wouldn't do that unless they thought they would get a win.

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Tahlequah Daily Press

April 24, 2013

STIR fears letters will derail EPA efforts

By *TEDDY SNELL*
Staff Writer

TAHLEQUAH — Members of Save The Illinois River Inc. are worried efforts are under way to derail the formation of a Total Maximum Daily Load of nutrients within the Illinois River watershed.

STIR forwarded copies of six letters sent to Ron Curry, administrator for the U.S. Environmental Protection Agency, Region 6. The organization asked the EPA to pause the Total Maximum Daily Load being developed for the watershed to allow the findings of a two-state stressor test response to become available, involving Arkansas and Oklahoma.

Those submitting letters included Tyson Senior Vice President Kevin Igli; Simmons Chairman Mark Simmons; Poultry Federation President Marvin Childers; Rogers/Lowell, Ark.; Chamber of Commerce President Raymond Burns; Northwest Arkansas Council President Mike Malone; and Springdale, Ark., Chamber of Commerce President Perry Webb. Copies of all six letters were also sent to the corresponding U.S. senators and congressmen Northwest Arkansas.

In February, Oklahoma Attorney General Scott Pruitt and Arkansas Attorney General Dustin McDaniel signed a Statement of Joint Principles, providing for a new “best science” study of the phosphorus load for the river. Both states, for the first time, agreed to be bound by the outcome.

The new study will take three years, and could result in a standard stricter than the current requirement. Oklahoma’s .037 milligrams per liter phosphorus standard will remain in effect throughout the new study.

STIR member Ed Brocksmitth sent a letter to Pruitt, asking for assistance.

“STIR believes that you and the Secretary of Environment should attempt to counter these letters by urging the EPA to continue full-speed ahead with the TMDL process,” wrote Brocksmitth.

“We cannot allow the important TMDL development to be further stalled by Northwest Arkansas forces.”

Oklahoma Scenic Rivers Commission Administrator Ed Fite was a signatory on the recent Oklahoma-Arkansas agreement.

“I was a signatory to the original agreement in 2003, and on the second agreement,” said Fite. “I believe as long as [the states] are working together, the river benefits.”

Fite agrees with Brocksmitth that the EPA should disregard the letters.

“From my standpoint, several of those letters misrepresent the agreement,” said Fite.

“The second agreement is simply a three-year extension of the original document. The reason we did the extension was to avoid costly and protracted litigation and administrative hearings that would undermine the goals both states have achieved since working together in 2003.”

Fite also pointed out that the EPA, which has conducted public hearings related to the TMDL, has indicated it will continue to develop the TMDL, regardless of any agreement reached between Oklahoma and Arkansas.

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Apr 24, 2013, 6:10am MDT

Gas company settles NM air pollution complaint



[Dennis Domrzalski](#)

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A Houston-based natural gas company with operations in the Farmington area has reached an \$838,000 settlement with the New Mexico Environment Department for alleged air pollution emissions at 31 of its New Mexico facilities.

Enterprise Products Operating LLC agreed to the settlement in the form of a \$186,000 cash payment to the state's general fund and \$932,000 to install pollution-control devices at its facilities, NMED said in a news release. Seventy percent of the pollution-control devices count toward the civil penalty, NMED said.

The alleged violations occurred between 2008 and 2010, NMED said.

"We are pleased that Enterprise addressed the alleged violations and agreed to this settlement," said NMED Secretary-Designate [Ryan Flynn](#). "The real benefit of this settlement is that Enterprise will now install state-of-the-art pollution-control devices that will lead to cleaner air.

"We hope this settlement sends a message that we will appropriately penalize

violators, but also work with them to achieve a better end result – better environmental protections for the future.”

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80 DEN A-2

Enforcement

Guidance Says EPA Is Developing Next Generation Compliance Program



By Jessica Coomes

The Environmental Protection Agency is developing "a new paradigm" in its compliance program to address high noncompliance with environmental regulations, the agency said in draft national program manager guidance for fiscal year 2014.

The EPA Office of Enforcement and Compliance Assurance said it is developing a Next Generation Compliance program that will take advantage of advances in emissions monitoring and information technology.

"The health and environmental benefits envisioned by our statutes, regulations, and state and tribal programs are not being fully achieved," the office said in the draft guidance. "...State and federal resources for onsite compliance assistance, individual inspections, and enforcement actions are not adequate to address the large universe of regulated sources, especially the numerous small sources that are important contributors to environmental problems."

EPA will accept comments through May 9 on the enforcement office's draft guidance as well as draft guidance for FY 2014 prepared by the agency's other offices, including air, solid waste, water, and chemical safety.

EPA said the program manager guidance documents provide a framework for regional, state, and tribal implementation of EPA's annual plan and budget and its strategic plan. The agency said EPA regional offices use the guidance to establish work-sharing plans with states.

Next Generation Compliance

The enforcement office said it is working with EPA's program offices and regional offices to design regulations and permits that include Next Generation Compliance tools.

The Next Generation Compliance initiative will involve using advanced emissions detection technology to spot pollution discharges to help industry prevent releases and to help governments and the public target noncompliance. In addition, the initiative will include advanced monitoring technology.

"This data will support the development of new and improved compliance measures, allowing for more evidence-based approaches to compliance work and better assessment of compliance rates," EPA said.

The guidance also said EPA will require electronic reporting of sources, pollution, and compliance.

"Electronic reporting should not be simply emailing files to the government," the guidance said. "It is taking advantage of advances in [information technology] to improve and streamline information submission, improving government while saving money. For example, an electronic 'smart' form or web tool will be developed that guides the regulated entity through the process."

Monitoring, Reporting Information to be Released

EPA also intends to make monitoring and reporting information publicly available to "empower communities to play an active role in compliance oversight and improve the performance of both the government and regulated entities," the guidance said.

As part of the initiative, EPA also is using enforcement approaches, such as fenceline monitoring, in its compliance efforts. Settlements and enforcement investigations also include advanced monitoring and electronic reporting.

EPA had sought comments on extending its six existing sector-based enforcement priorities for FY 2014 through FY 2016 and also on including the Next Generation Compliance initiative.

In response, Ohio, Pennsylvania, and some industry groups encouraged EPA to exclude Next Generation Compliance from the priorities list (48 DEN A-1, 3/12/13).

The Pennsylvania Department of Environmental Protection told EPA in comments Feb. 27 that the initiative would focus on entire sectors, not just the bad actors within a sector, and Next Generation Compliance "appears to simply be an attempt on the part of EPA to insert themselves in the issues historically managed by the states."

EPA Has Not Provided Enough Information

Several commenters also told EPA that the agency has not provided enough information about Next Generation Compliance.

The enforcement office's draft guidance said it will develop a strategic plan for the Next Generation Compliance program by the end of FY 2013.

The Government Accountability Office, in a report released Jan. 9, said EPA's failure to develop a strategic plan to implement the initiative could prevent the program from obtaining its long-term goals (07 DEN A-1, 1/10/13).

In an overview of the program manager guidance for FY 2014, EPA identified several topics that are prioritized across the various offices' individual guidance documents.

For example, offices are integrating sustainability and climate change into their programs.

Specifically, the EPA Office of Water's guidance said regional offices need to determine actions states can take to adapt their clean water and drinking water programs to climate change.

The guidance for the Office of International and Tribal Affairs said EPA will develop environmental provisions for a code for ships operating in polar waters, which will supplement work being done at the International Maritime Organization. Also, EPA will release a climate change adaptation implementation plan this summer.

Environmental Justice, Civil Rights

In addition, according to the various guidance documents, EPA will use Plan EJ 2014 to incorporate environmental justice considerations into its work and will prioritize protections to children's health.

And the offices will prioritize using technology and ensuring compliance with Title VI of the Civil Rights Act of 1964, which prohibits discrimination in programs that receive federal financial assistance.

For More Information

The EPA Office of Enforcement and Compliance Assurance draft national program manager guidance for FY 2014 is available at
<http://www2.epa.gov/sites/production/files/documents/draftfy14oecanpmdnce.pdf>.

Draft program manager guidance for other EPA offices can be accessed at
<http://www2.epa.gov/planandbudget/fy-2014-draft-npm-guidances>.

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Source: Daily Environment Report: News Archive > 2013 > April > 04/25/2013 > News > Budget: EPA Acting Administrator Defends Water Infrastructure Cuts, Aerial Surveillance

80 DEN A-1

Budget

**EPA Acting Administrator Defends Water
Infrastructure Cuts, Aerial Surveillance**



By Patrick Ambrosio

Bob Perciasepe, acting head of the Environmental Protection Agency, on April 24 defended proposed cuts to water infrastructure funds and the agency's use of aerial surveillance to enforce the Clean Water Act.

Perciasepe told members of the Senate Appropriations Subcommittee on Interior, Environment, and Related Agencies that a proposed \$472 million cut to the state clean water revolving fund and state drinking water revolving fund is one of the "painful choices" that the agency had to make in formulating its fiscal year 2014 budget request.

Perciasepe pointed out that over the past five years, the federal government has invested approximately \$20 billion in the funds, which are used by states to make low-interest loans or grants for wastewater and drinking water infrastructure projects. The president's budget request would provide \$1.09 billion in funding for the clean water SRF and \$817 million for the drinking water SRF (70 DEN A-12, 4/11/13).

Sen. Jack Reed (D-R.I.), chairman of the subcommittee, said he was disappointed in the proposed reduction in funding for the SRFs when estimates suggest that \$633 billion in funding for water infrastructure projects will be needed over the next 20 years.

Reed said "it just doesn't make sense" to request such large cuts to programs that create jobs and meet a public health and infrastructure need at a time when the president is focused on job creation and infrastructure.

Reed Disappointed With Overall Request

Reed also said he was disappointed with the overall budget request of \$8.15 billion for EPA, which is \$296 million below fiscal year 2012 enacted levels. That marks the fourth straight year the president has requested a cut to EPA funding, which makes it difficult for the subcommittee "to hold the line" on environmental funding when Congress works on appropriations legislation, Reed said.

Perciasepe reiterated that the proposed cuts to the SRFs are "a tough choice" and said that EPA is hopeful that it will continue to make progress on improving the nation's water infrastructure.

"There is no doubt about it that the country has a significant gap in funding water infrastructure," he said.

EPA is working with state and local partners to find efficiencies that would lower the cost of infrastructure projects, according to Perciasepe. He mentioned a focus on green infrastructure projects that would lower the life cycle costs of water projects.

Johanns Critical of Aerial Monitoring

Sen. Mike Johanns (R-Neb.) criticized EPA's past use of aerial surveillance to monitor livestock facilities to detect Clean Water Act violations.

Johanns said that he "can't imagine" why EPA would conduct aerial surveillance, noting that it "sounds like a federal agency that is completely and totally out of control." He noted that the aerial surveillance program feeds into a public perception that the agency is "a rogue group out there doing whatever they want to do."

"It feels like there is a federal agency out there spying on American citizens," Johanns said.

Perciaspe said he “respectfully disagreed” with Johanns' reference to EPA as a rogue agency. He defended the use of aerial surveillance, which he said is designed to help find “priority areas” for ground inspectors to look at for possible violations of the water act.

Perciaspe confirmed that EPA is not currently conducting any aerial surveillance and is reviewing how to implement an annual notification process before resuming the flights. The aerial surveillance is intended to improve the efficiency of the agency by targeting “scarce resources” to a place where there may be a problem, according to Perciaspe.

Bristol Bay Assessment Expected Soon

EPA hopes to release a revised draft scientific assessment of the Bristol Bay watershed in Alaska sometime in May, Perciaspe said.

The agency launched the assessment in February 2011 to address concerns over the potential effects of the proposed Pebble Mine copper and gold project on salmon and other wildlife in the watershed (109 DEN A-10, 6/7/12).

Perciaspe said the agency is “within weeks” of releasing the revised assessment for public comment and peer review. He said if the issues raised during the public comment period and by the peer review panel are “pretty straightforward,” the agency could finalize the assessment sometime in the fall.

Sen. Lisa Murkowski (R-Alaska), ranking member of the subcommittee, questioned Perciaspe on how EPA will proceed with its authority to retroactively veto Clean Water Act permits issued by the U.S. Army Corps of Engineers.

The U.S. Court of Appeals for the District of Columbia Circuit April 23 upheld the agency's authority to retroactively veto portions of a corps-issued dredge-and-fill permit for a West Virginia coal mining company (*Mingo Lohan Coal Co. v. EPA.*, D.C. Cir., No. 12-5150, opinion issued 4/23/13; 79 DEN A-1, 4/24/13).

Perciaspe said he had not yet been briefed on the court opinion but assured Murkowski that the authority to retroactively veto corps-issued permits is “not something that EPA takes very frivolously.”

He estimated that EPA has used that authority under the Clean Water Act less than 20 times since the law was enacted in 1972.

“It is a very rarely used authority,” Perciaspe said.

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Daily News

EPA Fights Multiple Legal Attacks In Suit Over MACT For Existing Utilities

Posted: April 24, 2013

EPA is fighting multiple legal attacks by the power sector, states and environmentalists in final briefing in litigation over the agency's utility maximum achievable control technology (MACT) air toxics rule for existing utilities, broadly rejecting competing claims that the rule is either weaker or stricter than the Clean Air Act requires.

The suit, *White Stallion Energy Center, LLC, et al. v. EPA*, is one of several challenges to EPA's utility emissions rules pending in the U.S. Court of Appeals for the District of Columbia Circuit. Other cases include a suit over EPA's MACT for newly constructed power plants; its new source performance standards for new and existing utilities; and a rule on emissions requirements during startup, shutdown and malfunction periods at existing utilities.

At least one of those suits -- the challenge to the MACT for new power plants -- could also give industry an opening to challenge the agency's overarching "pollutant-by-pollutant" approach to setting MACTs, an issue precluded from the existing utility MACT suit but one that industry has long sought to fight on the merits in the D.C. Circuit.

Oral argument at press time had not been scheduled in [the White Stallion case](#) over the existing source MACT, but the final round of briefs summarize the key claims that both critics and supporters of the rule are likely to raise at arguments.

[In their final brief](#), utility White Stallion and an industry and state coalition reiterate claims that EPA's finding that regulation of air toxics from utilities is "appropriate and necessary" is illegal and unfounded. The finding was meant to satisfy a Clean Air Act prerequisite for developing an air law section 112 MACT for utilities.

Former EPA Administrator Carol Browner issued the original finding, without seeking public comment, at the end of the Clinton administration in December 2000. However, the Bush EPA then de-listed electric generating units (EGUs) as a source category for MACT regulation under Clean Air Act 112, and attempted to pursue mercury reductions from the sector through an emissions trading rule -- a rule the D.C. Circuit scrapped in 2008.

After the Obama administration took office, it revived the Clinton-era appropriate and necessary finding to justify its development of the MACTs for existing and new coal- and oil-fired power plants.

Industry's Criticisms

Industry is now contesting the Obama EPA's subsequent decision to re-list power plants for MACT regulation, which critics say runs counter to previous EPA findings that emissions of hazardous air pollutants (HAPs) from power plants, including mercury, are too small to warrant MACT standards. Other air law programs already require installation of pollution controls that remove the bulk of utility HAPs, industry petitioners argue.

The industry coalition claims the MACT "must be set aside because the 2002 listing of EGUs was based on a substantively and procedurally flawed December 2000 'appropriate and necessary' finding." Industry claims EPA violated administrative procedure by issuing the original finding without taking public comment.

EPA's apparent reversal of policy is further unjustified and contradictory, as it does not explain why EPA reversed course on its decision to abandon a MACT in favor of emissions trading, the brief says. The coalition claims that data do not support EPA's finding that mercury and other pollutants from utilities pose public health hazards.

Industry says that the health benefits of the MACT rule are largely derived from reductions on non-HAP pollutants, such as

particulate matter, and these "co-benefits" cannot be used to justify the high costs of a rule targeting HAPs. Other pollutants should be addressed under other air law programs, industry argues. Also, if controls required by other programs adequately regulate HAPs, additional rulemaking is neither appropriate nor necessary, industry argues.

The industry brief then lists several other failings of the MACT. These include EPA's failure to set separate standards for smaller "area" sources and larger "major" sources; EPA's use of flawed methods to set the MACT limits for high energy content coal; EPA's decision not to set "health-based" standards as a compliance alternative to MACT limits; and EPA's "arbitrary and capricious" denial of a request from the Utility Air Regulatory Group (UARG) to again de-list EGUs for MACT regulation, which industry says was "based on flawed statutory interpretation."

A second industry coalition representing public power utilities and those using "unconventional" combustion or fuel types says in its own final brief that EPA's MACT is illegal because the emissions limits it set were developed for "conventional" coal-burning EGUs. The group claims that the agency has an obligation under the air law to set varying emissions limits for sub-categories of sources with different characteristics -- something it did not do.

Compliance Alternative

[Environmentalists in their final brief](#) defend EPA against the industry attacks that the rule is too strict, and instead challenge changes made to the rule that they say wrongly weakened emissions limits from those proposed. They object to EPA's provision of a compliance alternative that allows emissions averaging across several adjacent emissions units, because the averaging time is also extended by 30 days for each additional emissions unit.

EPA set the MACT "floor," or maximum emissions limit, based on a 30-day averaging time. The floor is calculated by averaging the emissions of the 12 percent least-polluting sources in a given source category. Environmentalists say that extending the averaging time will allow more brief spikes of high pollution and violations of the MACT.

Without application of a "discount" factor to emissions limits that were set using a longer averaging time, the alternative compliance option is illegal, environmentalists say. "The Averaging Alternative unlawfully relaxes the standards' stringency below that statutory minimum, by extending their averaging period." Furthermore, EPA provided no rational basis for its refusal to provide a "discount factor," as it has in other rules, environmentalists say.

Further, environmentalists object to flexible monitoring requirements that the agency included in the rule, which they say will allow violations of emissions limits. "The rule's monitoring provisions unlawfully fail to provide 'sufficiently reliable and timely information for determining compliance,' thereby allowing facilities to emit non-mercury metals at significantly higher levels than the statute allows," they argue in their April 8 brief.

Scientific Judgment

[EPA in its April 8 final brief](#) mounts a wide-ranging defense against the legal attacks, citing massive public health benefits that can be derived from reducing HAPs and co-pollutants. "EPA has reasonably exercised expert scientific judgment to determine, both initially in 2000, and again upon promulgating final standards in 2012, that regulation of hazardous pollutant emissions . . . is 'appropriate and necessary.' EPA has found, based on an extensive body of evidence and analyses, that EGUs pose hazards to both public health and the environment that will not be addressed through imposition of other requirements" of the air act, the agency argues.

The agency says that UARG failed to demonstrate why EGUs should be de-listed for MACT regulation, and says that it has no obligation to divide EGU regulation into area source and major source rules as it would under other parts of the air law. "Congress defined EGUs separately" from other source types, EPA says.

EPA says all of the emissions standards it set "were reasonably calculated using available data" and are therefore legal, despite industry criticisms that serious technical errors undermined the rulemaking process.

The agency also defends its handling of subcategories in the final MACT, and adds that "available data were insufficient" to support development of alternative, health-based standards, and the agency "reasonably declined to grant a blanket extension to the Rule's compliance deadline for publicly-owned EGUs."

Responding to environmentalists' attacks on its averaging and monitoring provisions, EPA says its "decision to allow contiguous, commonly-controlled units within a source to average their emissions for purposes of demonstrating compliance with the emissions standards was lawful," therefore characterizing a source as a collection of emissions units. "EPA also reasonably designated various alternative methods for monitoring emissions of non-mercury metals, consistent with its authority" under the air

law, the agency says in its brief.

MACT Standards

Meanwhile, one industry lawyer says that when the related lawsuit over the MACT for newly constructed utilities, also called *White Stallion Energy Center*, proceeds to trial, it is likely to address for the first time the pollutant-by-pollutant approach EPA takes to setting all its MACT standards for various sectors.

Industry has long argued that the approach is illegal because it sets emissions limits based on the best performing plants with respect to each individual pollutant, and is therefore unachievable in practice for all pollutants by a single source. But industry has been barred from challenging the principle in prior suits, the D.C. Circuit has found, because it failed to challenge it when the original MACT standards for various source categories were set.

However, the utility MACT is a new standard for a new source category, which could provide an opening to subject the pollutant-by-pollutant approach to judicial review, attorney Sandra Franco of law firm Bingham McCutcheon told an April 12 American Law Institute Continuing Legal Education air law event in Washington, D.C.

The consolidated litigation over the new source utility MACT has been in abeyance pending EPA's issuance of revisions to the rule. EPA finalized those revisions March 29, and published the rule in the April 24 *Federal Register*. The lawsuit at press time remained in abeyance. -- *Stuart Parker* (sparker@iwpnews.com)

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80 DEN A-6

Air Pollution

Two Agencies Plan to Study Air Quality, Greenhouse Gas Emissions From Gas Drilling



By Jessica Coomes

Two government agencies together will study air quality and greenhouse gas emissions at natural gas drilling operations.

The National Energy Technology Laboratory of the Energy Department and the National Institute for Occupational Safety and Health signed a memorandum of understanding for the research, the agencies announced April 23.

Anthony Cugini, the laboratory's director, said in a statement that the research will ensure the environment is protected as gas development proceeds, ensuring a domestic gas supply.

"The research will enable the development of modeling tools to predict and quantify potential risks associated with shale gas reserves that require hydraulic fracturing and assist researchers in analyzing greenhouse gas lifecycle emissions," the National Energy Technology Laboratory said in a news release. "It will also provide a basis for local, regional, state, and federal decision-makers to take positive actions to improve air quality and identify opportunities to reduce emissions from shale gas development and operations."

The National Institute for Occupational Safety and Health said the research also will address worker health and safety issues in the oil and gas industry.

"As this industry continues to expand, taking the opportunities for our agencies to combine resources and knowledge will assist in ensuring the safe growth of oil and gas in the future," institute director John Howard said in a news release.

"This partnership between NIOSH and NETL is a great opportunity for each agency to share and jointly move forward our scientific efforts to address the risks for both the workers and the environmental impact in the oil and gas industry," Howard said.

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Source: Daily Environment Report: News Archive > 2013 > April > 04/25/2013 > News > Water Pollution: EPA Report Shows Utilities Going Above, Beyond Secondary Treatment Standards

80 DEN A-19

Water Pollution

EPA Report Shows Utilities Going Above, Beyond Secondary Treatment Standards



By Amena H. Saiyid

An Environmental Protection Agency report shows that the nation's utilities that discharge at least 10 million gallons per day of wastewater are going above and beyond their prescribed secondary treatment standards.

At a national environmental policy forum April 24, Elizabeth Southerland, science and technology director for the EPA Office of Water, informed participants that EPA had posted the report that summarizes the current information on the ability of publicly owned wastewater treatment plants to use secondary treatment to reduce biochemical oxygen demand for conventional pollutants and total suspended solids from wastewater effluent.

She said the data showed wastewater utilities met the standard for effluent limits prescribed by EPA for secondary treatment for pollutants, other than nitrogen and phosphorus.

Chris Hornback, senior regulatory affairs director for the National Association of Clean Water Agencies, said EPA's report agrees with the trend they have observed.

"The trend suggests that design and equipment advancements as well as improved operational practices gained through decades of experience are enabling the clean water community to achieve greater reductions with a process—activated sludge—that has largely remained unchanged since the secondary treatment limits were established," Hornback told BNA in an April 24 email.

Report Responds to NRDC Petition

EPA had indicated in February that it would be releasing the report on the secondary treatment performance at wastewater treatment plants to respond to a 2007 petition filed by the Natural Resources Defense Council (27 DEN A-1, 2/8/13).

The biological treatment component of a municipal treatment plant is termed secondary treatment and is usually preceded by simple settling (primary treatment).

EPA sets secondary treatment standards for wastewater treatment plants. These technology-based regulations apply to all municipal wastewater treatment plants and represent the minimum level of effluent quality attainable by secondary treatment, as reflected in terms of five-day biochemical oxygen demand (BOD5) and total suspended solids (TSS) removal.

According to EPA, the secondary treatment standards require effluent discharge requirements (at a minimum) for most general municipal discharges to meet 30-day average effluent concentration limits of 30 milligrams per liter (mg/L) for BOD5 and TSS.

Focus on Plants Using Activated Sludge

In the report, EPA said there are 653 wastewater treatment plants that discharge more than 10 million gallons of wastewater. Of that total, EPA highlighted 116 plants that use the "typical" secondary treatment technology involving activated sludge. It chose not to focus on other plants that have more stringent controls in place for pollutants, such as nitrogen and phosphorus individually or in combination, for the purposes of the report.

Moreover, EPA data show the median monthly average for meeting the 30 mg/L limit of total suspended solids was 7.5 and that of BOD5 was 9.2.

Southerland said the report shows "everybody is doing better than that."

EPA decided to publish its review in early 2013 only after the agency was sued by NRDC in March 2012 for failing to respond to the group's 2007 petition, which requested that EPA update the list of secondary treatment technologies for all pollutants, including nutrients, as the Clean Water Act requires (*Natural Resources Defense Council v. EPA*, S.D.N.Y., No. 1:12-cv-01848, 3/30/2012; 53 DEN A-13, 3/20/12)).

Section 301 requires EPA to achieve secondary treatment standards to reflect any new information published from time to time pursuant to Section 304 (d)(1). According to NRDC, the agency's last assessment of the state of secondary treatment technology pursuant to Section 304 was made in 1985.

However, Michael Shapiro, EPA's deputy assistant administrator for water, told NRDC in a Dec. 14, 2012, letter that it would not publish a review of secondary treatment technologies for removing nutrients—a collective term for nitrogen and phosphorus discharges—but would do so for all other regulated pollutants (241 DEN A-16, 12/17/12).

The two-day forum was sponsored by the National Association of Clean Water Agencies.

For More Information

The EPA report on the performance of secondary treatment technologies is available at http://www.epa.gov/npdes/pubs/npdes_secondary_treatment_report_march2013.pdf.

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Daily News

EPA Struggles To Use Children's Health Data When Setting NAAQS

Posted: April 24, 2013

An EPA scientist is downplaying prospects that the agency will be able to use more children's health studies when setting national ambient air quality standards (NAAQS), as its children's health advisors are urging, due to political opposition from industry groups and their supporters on Capitol Hill, as well as a limited number of studies of children.

"It is frustrating in that industry has a lot of power; they emphasize the [scientific] uncertainty and that has a lot of power," James Brown, an EPA scientist, told the Children's Health Protection Advisory Committee (CHPAC) during its [April 17-18 meeting](#) in Washington, D.C.

Brown serves in EPA's National Center for Environmental Assessment (NCEA), the agency center responsible for creating the Integrated Science Assessment (ISA) documents underlying the national ambient air quality standards (NAAQS). The EPA scientist, who is the project manager for the ongoing ozone ISA, was responding to calls from CHPAC members, who last November urged the agency to use more children's data when setting NAAQS.

The Clean Air Act (CAA) requires the agency to create NAAQS for each of the six criteria pollutants every five years. But during their Nov. 7-8 meeting in Arlington, VA, several CHPAC members raised concerns over EPA's limited use of children's research in regulatory decisions, especially in the agency's then proposed NAAQS for fine particulate matter (PM2.5), which was based on adult studies.

The advisers want EPA to use additional children's data because it will help justify more stringent regulations that they believe will better protect children, who are more sensitive to contaminants than adults.

Since CHPAC called for EPA to use more children's data, the agency has published its final PM2.5 rule, tightening the annual limit down from 15 micrograms per cubic meter (ug/m3) set in 1997 to a stricter limit of 12 ug/m3. EPA retained its existing coarse PM NAAQS of 150 ug/m3 and the 24-hour PM2.5 standard of 35 ug/m3.

CHPAC, however, recommended that the agency finalize an annual PM2.5 limit of 11 ug/m3. The rule took effect March 18, though the National Association of Manufacturers (NAM) and other industry groups have filed suits challenging the measure.

While CHPAC has urged EPA to use more children's data, the agency faces a host of ethical and other dilemmas when it seeks to use research on human subjects to justify its decisions -- even though the data may be more robust than animal data. Such dilemmas are especially pronounced when conducting research on children. Even observational studies -- where children are observed in their homes or schools, and contaminants in those environments are recorded -- have fallen victim to concerns about protecting children from any harms.

EPA is also facing litigation from the American Tradition Institute which is seeking to block the agency from continuing human testing of PM2.5 exposure.

As a result of the ethical concerns, few if any chamber studies -- those where subjects are exposed -- exist based on children's exposure, though there are epidemiological studies suggesting harms to children. Chamber studies of human subjects are generally conducted with young, healthy adults, 18-35 years old, and generally more men than women, Brown said.

EPA Staff 'Frustration'

CHPAC's call for EPA to use more children's data "touched on something that's a frustration for many of the staff that work on ISAs,"

Brown told the panel. "Uncertainty is being used as a reason for doing nothing rather than a means of being protective." He added that he has "seen it with ozone, for doing nothing or setting [the NAAQS] above what the staff and [EPA's Clean Air Scientific Advisory Committee (CASAC)] feels is protective."

He said that political intervention -- from both Republican and Democratic administrations -- in the standard setting process "is a problem" that will be difficult to overcome. "It won't happen within EPA. It needs to come from outside with [an argument] for protection of health rather than protection of the economy and industry," he said, suggesting that if a CHPAC member were to speak at a public comment session during clean air scientific reviews, "that raises the level of the comment."

Brown also noted that after the ozone NAAQS, CASAC requested that EPA create a strength of evidence approach relating to causal determination for the ISAs. The approach calls for "multiple high-quality studies," a "focus on doses or exposures generally" within one to two orders of magnitude of environmental levels and a finding that "chance, bias, and confounding could be ruled out with reasonable confidence," according to Brown's presentation.

Such approaches can lead to the use of stronger studies -- those that include larger numbers of subjects to increase statistical reliability, use randomized approaches, control groups and chronic-duration exposures and remove confounders and address numerous other issues. But they can also lead away from the use of smaller studies that may not meet these criteria but provide information about particularly susceptible groups, such as asthmatics, children and the elderly.

Brown said the approach was used in the PM and other NAAQS. He added that CASAC has also reviewed and approved EPA's approach for reviewing at-risk populations and lifestages, and EPA has used the approach in the creation of the ozone and lead ISAs.

One of the CHPAC members, Martha Sandy, chief of the cancer toxicology and epidemiology section in California's Office of Environmental Health Hazard Assessment, encouraged Brown to think about the severity of the potential effects of children exposed to criteria pollutants at a young age.

Brown agreed, but noted that chamber study data available in infants is in infant monkeys, not humans. If used as the basis for the NAAQS, the infant monkey data would result in a very stringent standard, he said. "That'll be pooh-poohed as too high," he said of a hypothetical standard based on the infant monkey data.

"There are implications that ozone exposure early in life . . . persists in life, [with effects that are] not just asthma, but infections and activity, they're starting at a deficit," Sandy said.

Again, Brown agreed with her comments. "We also don't know whether they'll decline at a greater rate," he said.

Environmental Health

Pam Shubat, CHPAC's co-chairman and supervisor of human health risk assessment for Minnesota's Department of Health, noted that CHPAC has written more than one letter raising concerns about the use of children's data in NAAQS. "How can we be more effective?" she asked Brown. "Obviously, what we thought and what CASAC thought didn't have a lot of weight" in the resulting PM NAAQS.

"I really don't know," Brown replied. "I know industry is very successful at getting senatorial support. Senator [James] Inhofe [R-OK] and Senator [David] Vitter [R-LA] say everything we hear from industry . . . I don't know how public interest groups get the same level of [attention]. I don't know how to express the other side of uncertainty . . . I feel like we're failing."

Brown said he expects EPA to issue the second draft ozone ISA "in the next several months, perhaps July." He added that the proposed and final ozone NAAQS rules are due "sometime in 2014."

CHPAC members also called for the Obama administration to take children's environmental health issues more seriously by scheduling meetings of the cabinet level Presidential Task Force on Environmental Health Risks and Safety Risks to Children. President Bill Clinton established the task force through executive order, though it appears that it has not met since his administration.

Jackie Mosley, acting director of EPA's Office of Children's Health Protection and Sandra Howard, a senior environmental health advisor in the Department of Health and Human Services' office of the assistant secretary for health, gave an update on the task force's activities during the CHPAC meeting. But Mosley and Howard were forced to admit that the actions were undertaken by the staff-level steering committee for the task force, not by the cabinet-level members of the task force themselves. -- *Maria Hegstad* (mhegstad@iwpnews.com)

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The Norman Transcript

April 25, 2013

OU increases its green power and rises on top schools list

For the Transcript

The Norman Transcript

NORMAN — The University of Oklahoma has increased its ranking to No. 2 on the Top 20 College and University list of the largest green power purchasers, according to the U.S. Environmental Protection Agency.

OU purchases nearly 154 million kilowatt-hours of green power annually, enough to meet 85 percent of the organization's electricity use. OU buys a utility green power product from Oklahoma Gas & Electric.

In addition to OU's spot on the Top 20 College and University list, the university's green energy use qualifies the University of Oklahoma for EPA's Green Power Leadership Club, a distinction given to organizations that significantly exceed the EPA's requirements.

Green Power Leadership Club members must purchase 10 times the partnership's minimum requirement organization-wide.

Green power qualifies as electricity generated from environmentally preferable renewable resources such as wind, solar, geothermal, biogas, biomass and low-impact hydro. According to the EPA, OU's green power purchase of nearly 154 million kWh is equivalent to avoiding the carbon dioxide (CO2) emissions of nearly 23,000 passenger vehicles per year or the CO2 emissions from the electricity use of more than 16,000 average American homes annually.

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BP teams with A&M to study where spills might travel in Gulf

By Craig Hlavaty | April 24, 2013 | Updated: April 25, 2013 6:07am

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A sample drift card, one of 5,000 that will be placed into the Gulf Of Mexico for scientific tracking purposes. Photo: Texas A&M

Texas A&M and BP have teamed up to release 5,000 drift cards into the Gulf Of Mexico to help track ocean tides, and in the event of an industrial accident, the direction of the spill. The project is funded by BP's **Gulf of Mexico Research Initiative**, formed in the wake of the Deep Water Horizon disaster in 2010, but the petroleum company has no influence on the research.

The yellow cards are biodegradable and come with contact information for those that discover the cards to report back to the researchers, in English and Spanish. Posters in bait shops and sporting goods stores in Gulf Coast states also describe the drift card program.

Dr. **Piers Chapman**, the head of oceanography at Texas A&M, is no stranger to using drift cards in ocean research. He used them off the coast of South Africa near Capetown, with those cards reaching as far as the Australian coast. Chapman says that so far the cards have been dropped off the coasts of Alabama and Mississippi. They are waiting for the next scientific cruise to drop the drifters into the ocean off the Texas coast. But deep sea fishing expeditions could be of help too. "We should look and see if fishing trips for the well-heeled wouldn't mind dropping off the cards too for us," Chapman said.

There is also a chance to win a \$25 gift card for anyone who finds a card and reports back to A&M and the GoMRI on its whereabouts. Finders can be keepers, too. The program isn't asking for the wooden, biodegradable items back. MARPOL regulations in the '70s banned plastics from being dumped into the ocean, even for scientific research, hence the wooden make-up of the drift cards.

Chapman knows the program will provide invaluable data to students for some time, who are studying a body of water where tidal movement is dependent on local circumstances and has little coherence. It's actually erratic. "Our hope is that this gets more people interested in the Gulf," Chapman said.